

**WICHITA-SEDGWICK COUNTY**  
**METROPOLITAN AREA PLANNING COMMISSION**

**MINUTES**

**April 2, 2015**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 2, 2015 at 1:30 p.m., in the Planning Department Conference Room, 10<sup>th</sup> floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Matt Goolsby, Chair (Out @3:00 p.m.); Carol Neugent, Vice Chair; John Dailey; David Foster; Bill Johnson; Joe Johnson; Don Klausmeyer; John McKay Jr. (Out @2:55 p.m.); Bill Ramsey; Lowell E. Richardson; Debra Miller Stevens and Chuck Warren. David Dennis and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney; Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary

1. There were no minutes to approve.

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2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2015-00007: One Step Final Plat – RUSTIC TIMBERS ADDITION**, located on the south side of 63rd Street South, West of 247th Street West.

NOTE: This site is located in the County in an area designated as “rural” by the Wichita-Sedgwick County Comprehensive Plan. The site has been approved for a zone change (PUD2014-00003) from RR Rural Residential to PUD Planned Unit Development.

**STAFF COMMENTS:**

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. A restrictive covenant is required that prohibits non-domestic wastes on the site until public sewer is available.
- B. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, Metropolitan Area Building and Construction Department recommends connection.
- C. If improvements are guaranteed by petition(s), a notarized certificate listing the petition(s) shall be submitted to the Planning Department for recording.
- D. County Public Works has approved the drainage plan. The applicant is advised that any development that disturbs more than one acre will require a Notice of Intent from the state and a Stormwater Permit. New structures built after March 31, 2015 shall meet a minimum pad elevation of 1314.
- E. County Surveying advises that the plat needs to show an onsite benchmark.
- F. Metropolitan Area Building and Construction Department requests the Floodzone “A” be labelled as “Floodway Reserve”. A base flood elevation is needed.

- G. Provisions shall be made for ownership and maintenance of the proposed floodway reserve. A restrictive covenant shall be submitted regarding ownership and maintenance responsibilities. The covenant shall grant to the appropriate governing body the authority to maintain the floodway reserve in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The standard floodway language is needed in the plat's text: "FEMA floodplain and regulatory floodway boundaries are subject to periodic change and such change may affect the intended land use within the subdivision.
- I. Access controls need to be platted along 63<sup>rd</sup> Street South. County Public Works has approved one opening along 63<sup>rd</sup> Street South. The final plat tracing shall reference the dedication of access controls in the plat's text.
- J. The solid bold line should encompass only the plat boundaries.
- K. The landscape barrier line shall be relabeled as a "landscape buffer" and encompass the entire perimeter of the site.
- L. In accordance with the Kansas Wetland Mapping Conventions under the Memorandum of Understanding between the United States Department of Agriculture - Natural Resources Conservation Service; United States Environmental Protection Agency; United States Army Corps of Engineers (USACE); and United States Fish and Wildlife Service, this site has been identified as one with potential wetland hydrology. The USACE should be contacted (316-322-8247) to have a wetland determination completed.
- M. A PUD Certificate shall be submitted to MAPD prior to the Board of County Commissioners meeting, identifying the approved PUD and its special conditions for development on this property.
- N. County Surveying advises that she is working with the plat surveyor on the plat boundary. The Subdivision Committee has required submittal of a revised plat showing new property boundaries prior to MAPC consideration.
- O. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- P. The platting binder indicates a party holding a mortgage on the site. This party's name must be included as a signatory on the plat, or else documentation provided indicating that such mortgage has been released.
- Q. County Surveying and MAPD requests review of a pdf prior to mylar submittal. Send to [tricia.robello@sedgwick.gov](mailto:tricia.robello@sedgwick.gov) and [nstrahl@wichita.gov](mailto:nstrahl@wichita.gov).

- R. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- S. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- T. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- U. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- V. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- W. Perimeter closure computations shall be submitted with the final plat tracing.
- X. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- Y. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: [kwilson@wichita.gov](mailto:kwilson@wichita.gov)).

**NEIL STRAHL**, Planning Staff presented the Staff Report. He reported that there were two issues discussed at plat review, one was a boundary line dispute on the west property line and the other was the landscape buffer. He referred Commissioners to Item N. in the Staff Report which referred to the boundary line issue. He explained that the property owners and the neighbor to the west both have deeds with an overlapping portion of land approximately 10 feet wide. He said the applicant's agent said the land would be platted to exclude the land in dispute. He said staff has received a revised plat with the disputed land excluded from it. He said the County Surveyor has also reviewed the revised plat and verified that the legal description is accurate. He said in reference to Item K. in the Staff Report

regarding the landscape buffer around property, he said the PUD zone change was approved with a 50-foot buffer around the perimeter of the property. He said the plat has also been revised to show the 50-foot buffer around the property, with the exception of the right-of-way in accordance with the approved PUD. He said staff feels the items have been addressed with the revised plat.

**DAILEY** clarified that it was okay to leave the rock driveway in the landscape buffer.

**STRAHL** said yes, that will be allowed.

**CHAD ABBOTT, 520 SOUTH HOLLAND, ABBOTT LAND SURVEY, AGENT FOR THE APPLICANT** said they are in agreement with staff comments. He said the plat was revised to exclude the disputed 10 feet of property to the west that overlaps. He briefly reviewed the land in dispute on the aerial photograph.

**AARON PAULY, 25717 WEST 63<sup>RD</sup> STREET SOUTH** said he wanted to thank the Planning Commission for taking their time and doing their due diligence on this matter especially the part regarding the rules and regulations that were put in place to protect property owners were being followed. He said because of the property line shift the landscape buffer now incorporates the driveway. He asked what is the point of a buffer if you have a road running through it. He said the buffer also includes some of the parking lot. He sees nothing on the new plat that addresses additional parking or a new driveway. He said they have received no clarification on the size and type of trees to be planted. He said he should be able to enjoy every square inch of his property because he is the senior deed holder. He said the trees are all located on his side and he should have a buffer shielding him from any activities that go on next door. He asked who is going to enforce this. He said they continue to get the “run around” and he feels someone needs to stand up and be accountable to see that the rules and regulations set up by the governing bodies are followed. He said he hopes the stink that the neighbors have caused about this project will protect some citizen down the road so that checks and balances are put in place to protect them. He said this is their home and some of them have been there 40 years. He thanked the Commission for what they have done and taking the neighbors seriously.

**ABBOTT** acknowledged that the landscape buffer moved the entrance and the parking over a little. He said the driveway was existing so it is a PUD issue and no language prohibited the driveway from being located within the landscape buffer.

**FOSTER** commented that he feels the landscape buffer has been compromised. He asked if the existing vegetation meets the intent to provide landscape buffering between the use and the neighbors.

**ABBOTT** said no requirement for additional plantings was imposed on the applicant during the PUD process. He said the landscape buffer’s purpose is twofold because it is acting like a secondary building setback because the applicant cannot build in that area and it is also meant to protect the existing trees and provide insulation between the neighbor’s property and this one.

**FOSTER** suggested that if the applicant wanted to be a good neighbor they could plant Taylor Junipers or Upright English Oaks and fill in any gaps in the landscape buffer.

**MOTION:** To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

MCKAY moved, B. JOHNSON seconded the motion, and it carried (12-0).

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**3. PUBLIC HEARING – VACATION ITEMS**

There were no vacation items.

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**PUBLIC HEARING**

4. **Case No.: ZON2015-00012 and CON2015-00010** – Estate of Verna E. Cornwell, Kenneth E. Cornwell and David Cornwell co-executors (owners) and Ruggles & Bohm, PA (agent) request a City zone change from SF-5 Single-family Residential to LC Limited Commercial and City request for a Conditional Use for a self-storage warehouse on SF-5 Single-family Residential zoning on property described as:

A tract beginning 545 feet West of the Southeast corner of the Southeast Quarter; thence North 425 feet; thence West 600 feet; thence South 425 feet; thence East to the point of beginning Section 34, Township 26, Range 1 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas.

**BACKGROUND:** The applicants are requesting a zone change from SF-5 Single-Family Residential to LC Limited Commercial for 4.94 acres of a 5.5 acre unplatted parcel, located west of North Hoover Road on the north side of West 29<sup>th</sup> Street North. In 1958, Sedgwick County zoned the four corners of the intersection to LC in anticipation of commercial development. The east portion of the parcel, approximately 0.45 acres, currently zoned LC, was part of that rezoning. In addition to the requested zone change to LC, the applicants have submitted a request for a conditional use to allow warehouse/self-storage on the site (CON2015-10).

The applicants have submitted a site plan of the proposed building layout, internal vehicle circulation and the access onto West 29<sup>th</sup> Street North will be reviewed and approved during platting should ZON2015-00012 and CON2015-00010 be approved. Upon approval of ZON2015-12 and the subsequent CON2015-10, the applicants will be required to file and perfect a plat within one year and provide a revised site plan giving more detail including, but not limited to, landscaping, any proposed light poles and identification of customer and employee parking.

Property north of the site is currently going through the process of rezoning to LI Limited Industrial and re-platting for use as wrecking and salvage (ZON2014-03, CON2014-001 and SUB2014-42). The Metropolitan Area Planning Commission (MAPC) has approved the zone changes subject to final platting. SUB2014-00042 is scheduled for Wichita City Council on March 24, 2015. Property east of the site is zoned LC and currently has a single family residence. The SF-20 zoned property west of the site with a condition use to allow for sand and gravel extraction (CU-242). South of the site is Barefoot Bay Subdivision, which is developed with single-family residences.

**CASE HISTORY:** This zone change application has been filed to change current zoning (SF-5) to LC. LC zoning allows warehouse/self-storage facilities with approval of CON2015-10. The land is currently undeveloped.

**ADJACENT ZONING AND LAND USE:**

NORTH:	SF-5	Single-Family Residential; currently being re-platted to LI for wrecking and salvage use.
SOUTH:	SF-5	Single-family residences
EAST:	LC	Limited Commercial; currently developed with single-family residence
WEST:	SF-20	County single-family; has a conditional use to allow warehousing CU-242

**PUBLIC SERVICES:** The subject property has immediate access to West 29<sup>th</sup> Street North and North Hoover Road is approximately 600 feet east of the subject site. Both streets are two-lane arterial streets. Municipal water and sewer services and all other utilities are currently provided to the subject property.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for “Urban Residential;” however, the abutting properties are zoned LC and recently rezoned LI. The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The conditions attached to a Conditional Use can address site design issues. The proposed use would be a low traffic generator at this location.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the proposed zone change and conditional use for warehouse/self-storage be **APPROVED**, subject to Sec. III-D.6.y and the following conditions:

- 1) The zone change and conditional use will not be final until the property is platted according to the Subdivision Regulations of the UZC.
- 2) Obtain all permits and inspection as required by the Metropolitan Area Building and Construction Department. All development will subject to platting and be per City Code including landscaping, code compliance and any other applicable standards.
- 3) The applicant shall submit a revised site plan for review and approval by the Planning Director, prior to the issuance of a building permit, per City Standards, within one year of approval by the MAPC or the City Council. The site will be developed according to the revised site plan.
- 4) All improvements shall be completed within one year of the approval of the Conditional Use by the MAPC or the City Council.
- 5) The site shall be developed and operated in compliance with all federal, state, and local rules and regulations.
- 6) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

The staff’s recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** Property north of the site is awaiting final plat approval by the City Council for LI wrecking and salvage use. Property south of the site is zoned LC Limited Commercial (“LC”) and developed with a warehouse/retail use. Property east of the site is zoned LI Limited Industrial (“LI”) and is developed with a miscellaneous manufacturing use. West of the site, the property is zoned SF-20 and has a conditional use (CU-242) for warehouse use.
2. **The suitability of the subject property for the uses to which it has been restricted:** The east  $\pm$  0.45 acres of the subject property is already zoned LC. The owners of the subject property have submitted a conditional use application for the warehouse/self-storage commercial use. The property would be suitable for the commercial uses to which it has been restricted.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Warehouse/self-storage developed with the Conditional Use, will have a minimum negative effect on the area and at best improve the property, with the application of access control, landscaping, screening and the other conditions on the site.
4. **Conformance of the requested change to adopted or recognized Plans/Policies:** The Commercial Locational Guidelines of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterials and should have site design features, which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The conditions attached to a Conditional Use can address site design issues and should mitigate any potential negative effects on surrounding properties.
5. **Impact on Community Facilities:** All public facilities are available and existing road facilities are adequate. Any increased demand on community facilities can be handled by current infrastructure

**DALE MILLER**, Planning Staff presented the Staff Report.

**CHRIS BOHM, RUGGLES & BOHM, 924 N. MAIN STREET, AGENT FOR THE APPLICANT** reported that the architect, Jim Albertson, was also present to speak on the application. He explained that this was an application for self-storage or mini-storage where people would rent a garage space for personal storage. He referred to the site plan which they feel gives good circulation. He mentioned the north boundary line which will serve as a fence between this use and the future LI salvage operation to the north. He said the idea of establishing a PUD was discussed with staff; however, requesting LC with a conditional use provides a whole set of rules for the self-storage that already exists with the conditional use. He said there will also be landscape buffers along 29<sup>th</sup> Street to help buffer the use from residential uses to the south. He said given the locations close proximity to the industrial use to the north, they felt this was a good transitional use in the area, particularly because the corner is already zoned LC and additional LC could be developed further to the east of the location. He referred to Jim Albertson to discuss the layout plan.

**J. JOHNSON** asked about use on the right side of the property.

**BOHM** said that is reserved for future development of additional storage units.

**FOSTER** asked about the southeast corner of the property and the zoning to the east.

**BOHM** said the southeast corner is a platted reserve for stormwater retention. He said the area to the east of the site is zoned LC but is being used as residential.

**FOSTER** commented so technically no buffer is required along the east side of the property.

**BOHM** replied technically no.

**DAILEY** asked what was the buffer between the buildings and 29<sup>th</sup> Street.

**BOHM** suggested that the architect Jim Albertson answer that question.

**JIM ALBERTSON, ALBERTSON AND ASSOCIATES ARCHITECTS** said the buffer is intended to be a bermed area of grass, trees and shrubbery not unlike a golf course entrance. He said on the north side there will be brick/stone pillars with wrought iron fencing. He said the intent is to blend the architecture with homes to the south side of the street and provide a visual barrier for cars to minimize the views of the self-storage.

**JOSEPH POGGI, 6011 WEST 29<sup>TH</sup> STREET NORTH** indicated he lived south of 29<sup>th</sup> Street. He said this used to be a dirt road, there were abandoned properties with cars on them in the area and they were told when they built in this location that they knew what they were getting into. He said there used to be a small home on the property in question with a garden that he used to help till. He said this was a nice, residential street with no businesses on it. He said he believes the zoning practice in 1958 of zoning 600 feet of all arterial intersections as LC was done when there were no houses in this area at all. He said the property owner has been trying to sell the property since the house burned down at over ten times fair market value for residential property. He said the Zillow Web site talks about the property being worth \$300,000 for five acres because it is across the street from \$1,000,000 homes. He said he doesn't think there are many \$1,000,000 homes across the street from a storage unit. He said regardless of the price of the homes, there are not many self-storage units in the middle of a residential street. He said there are no other businesses on the street and there are quite a few self-storage units nearby, one less than two miles away. He asked if there is a need for another self-storage business. He said if anyone wants to see what a self-storage unit can look like, drive by the one on Hoover Road. He said it is a car lot where people park their cars and trailers; there is garbage in the lot and trees that have never grown in the buffer. He said once this property is rezoned, it opens the floodgates for further devaluation of their property. He requested that the property be left residential. He mentioned that nine of the fourteen people who were mailed notices have signed protest petitions against the proposed zoning change. He mentioned another storage unit business close by. He said there is no shortage of areas that are already zoned industrial and commercial, but it seems property becomes cheaper because it is zoned residential. He asked about changing the zoning on a property to accommodate an individual's desire verses many individual's desires to keep their homes looking beautiful. He concluded by saying that there are plenty of other properties close by that are already zoned for commercial and industrial use.



**ANGIE BOWMAN, 2987 NORTH HOOVER ROAD** said she lives on the corner of 29<sup>th</sup> Street and Hoover Road. She said she has been collecting petitions. She mentioned the other storage businesses very close to the neighborhood. She said although the corner lots are already rezoned for limited commercial, she has a signed petition from the property owner who said they are not planning on moving and that their kids will live in the house after they are gone. She indicated that other surrounding property owners don't want the storage units and mentioned a conflict of interest in that the person selling the property is renting a home from one of the people she asked to sign a petition. She said she also got a petition from the owners of the junk yard to the north of the property. She said they have a problem with unmanned self-storage units. She mentioned break-ins in the area and people coming into the community to steal. She said this would be a whole bunch of buildings with "stuff" in them which would be an open invitation to thieves. She said that is one reason not to rezone the property. She concluded by asking the Commission to consider the homeowners that live around this property.

**DAILEY** asked if there were any units available in the storage businesses located nearby.

**BOWMAN** said she checked and there were units available for rent.

**DAVE CHAMPLEY, 2760 NORTH NORTH SHORE COURT, BAREFOOT BAY HOMEOWNERS ASSOCIATION, CHAIRMAN OF THE LAKE COMMITTEE** said Barefoot Bay is a 120-acre private lake surrounded by 52 homes. He said the impact of the Commission's decision is not just on the properties located immediately adjacent to the application site. He also mentioned possible environmental impact on the lake due to increased water runoff because of increased buildings and pavement. He said the lake has flooded twice in the last ten years and caused property damage. He said he is also concerned about potential pollutants in the water runoff. He said the terrain is such that any runoff will go into the lake. He said if they do not have the lake for recreational purposes that will kill their property values. He said he might go so far as to say that the loss in property values and property taxes on 52 homes might be greater than the property tax increases from commercial use.

**BRET GRIZZEL, 5937 WEST 29<sup>TH</sup> STREET** said he lives directly across the street from the location. He mentioned that his property taxes increased 40% last year. He said he visited with the owners on how to split up the land. He mentioned that he also signed a petition to protect this property from the proposed salvage yard to the north. He said the owners know this is not good for the local community. He said although he is uncomfortable speaking against what his friends want for financial reasons, he has no doubt in his heart that this is not what they would want if they were sitting in any of the adjoining lots.

**DAVID CORNWELL, 5618 WEST 29<sup>TH</sup> STREET NORTH, APPLICANT** said he wished that the neighbors that have spoken here today had been present for the salvage proposal on the north side of his property. He said there is approximately 15-20 acres of salvage yard next to the property and no one is going to put a new home next to a salvage yard. He said if this doesn't pass, no one is going to build on this land so they may as well make a dirt bike track out of it.

**FOSTER** asked Mr. Cornwell if any other items were brought up as potential uses.

**CORNWELL** said no, if this doesn't go he said he'll contact the dirt bike people and let them use 6 acres to play on.

**RAMSEY** asked if the property line with the salvage yard has been resolved.

**CORNWELL** said yes and explained that the mile sections are measured 425 feet from the center of 29<sup>th</sup> Street. He said they are talking about less than five acres.

**BROOK GRIZZEL, 5937 WEST 29<sup>TH</sup> STREET NORTH** said they know and have spoken with the neighbors and that they are very nice people. She said she and her husband work very hard, long hours to pay for their nice home on a lake and they would like to keep it that way. She said this property is zoned residential and there was a home on it. She referenced the Golden Rules which talks about the suitable of the property for uses to which it has been restricted and the relative gain to public health, safety and welfare compared to loss in value or hardship imposed on the applicant. She said the just under five acres is way over priced for what it is worth and that the neighbors have actually offered to buy the property to protect all of the property owners along this residential road as well as the 52 homeowners along the lake.

**FOSTER** mentioned transitional uses and asked Mrs. Grizzel if she would prefer multi-family or the proposed use.

**GRIZZEL** said she wouldn't prefer either of those uses. She mentioned the number of storage units nearby and also the storage units along Hoover Road and what an eyesore they are. She said the property can be used as a single home site just as it is now.

**LINDA STEPHEN, 6111 WEST 29<sup>TH</sup> STREET NORTH** said the city just paved the road and landscaped it with trees and it is just beautiful. She said she believes this will have an adverse effect on their properties. She said she doesn't think any of the Commissioners would want a storage unit located on a residential street. She also mentioned security and traffic and asked the Commission to take all that into consideration.

**DENNIS GRIZZEL, 6461 WEST 29<sup>TH</sup> STREET NORTH** said when someone purchases residential property they expect it to remain residential property. He said the neighbors watch out for each other in Barefoot Bay and across the street in Ridgeport. He said several petitions have been signed and he believes a lot more will be signed. He said his major concern is increased traffic and the hazard it will cause pulling out of his driveway; the safety of his grandchildren; and pollution in the area. He also mentioned that the storage units will bring more pollutants and more thievery into the area. He said this use brings non-residents into the area and it is already a problem with other storage units. He asked if the "protective berm" might become a fire hazard and who will maintain that. He said some storage units look like unused parking lots where people store things they don't want to store in front of their houses. He said he feels strongly that this will deteriorate property values and bring in people that they don't want hanging around the area.

**NANCY POGGI, 6011 WEST 29<sup>TH</sup> STREET NORTH** said she lives on the south side of 29<sup>th</sup> Street. She said when they moved into the area it was a sleepy little dirt road. She said she has four children all under the age of 11 and there are numerous other school age children and grandchildren living in the area. She mentioned that the school bus picks up children along Hoover Road. She said when the City

paved the road; they put the sidewalk on the north side of the street so children in the neighborhood have to cross the road without a designated cross walk. She said she is concerned that increased traffic will put the children at risk along with the unknown entities coming into this residential area. She said 86% of this property is zoned as residential. She asked the Commission to protect the interest that they have when they moved their children and families into the neighborhood. She said the neighbors don't want LC in this region. She said even the gentleman on the north property has signed the petition because he is concerned about theft in the area. She also mentioned a home being built/expanded in the northeast corner of the property. She said her primary concerns are the safety of her children and her neighbor's children, maintaining her home value and keeping the area residential.

**MCKAY** asked how far her home was from 29<sup>th</sup> Street.

**POGGI** indicated on the aerial the location of her home on the lot, closer to the water than 29<sup>th</sup> Street. She said her children play in the front yard and they are "faunching" at the bit to cross the street and use the sidewalk to visit their friends in Ridgeport.

**DAILEY** commented that she is worried about her children but has managed to keep them out of the lake, which he believes offers as much danger as the road.

**POGGI** said she disagreed that the lake was as dangerous as the road. She mentioned training the children receive regarding the lake, swimming lessons and parental supervision while they are at the lake. She said they can control the lake area; they cannot control the traffic on 29<sup>th</sup> Street.

**DAILEY** responded but you can control your kids.

**BOHM** mentioned environmental concerns expressed by the neighbors and said although drainage is not a zoning issue, it seems to come up at every zoning hearing. He said the storm sewer system along 29<sup>th</sup> Street drains all the way to the west and bypasses the pond. He said City of Wichita stormwater regulations require detention of peak flow and water quality treatment of the storm sewer before it leaves the site. He said that issue will be resolved at platting. He said as far as traffic is concerned this is an arterial street that has a new interchange to the north at K-96 and is part of the City transportation system. He said it is a three-lane arterial road meant to handle traffic and was rebuilt for that very purpose. He said as far as landscaping and the berm he is having a hard time seeing where you could get a better use tucked into the area that is as low a traffic generator and quiet and fits into the neighborhood and gives a further buffer to the neighborhood from the industrial use to the north. He concluded by stating that infrastructure put into the City is for the purposes of development. He said this is considered in-fill and has been a single-family residence for some time next to LC zoning. He reminded the Commission that the owners on the corner could sell tomorrow and without any action from this body put in a commercial use.

**FOSTER** asked about traffic generation from this use and if it was below multi-family zoning.

**BOHM** referred the question to Mr. Albertson.

**ALBERTSON** said he had been involved in approximately 15 similar type projects across the west, southwest and Midwest. He said they look for in-fill type properties where they can become a buffer between whatever elements might be at a location and existing residential. He said he appreciates the viewpoints of the neighbors and would welcome the opportunity to visit with them.

**CHAIR GOOLSBY** said time has been exhausted and asked Mr. Albertson if he needed more time or was he going to answer Commissioner Foster's question.

**ALBERTSON** requested an additional minute.

**MOTION:** To give the speaker an additional minute.

**MCKAY** moved, **J. JOHNSON** seconded the motion, and it carried.

**ALBERTSON** said traffic generation is about 6-8 cars per day.

**FOSTER** asked about the type of fencing on the east, west and north sides of the property.

**ALBERTSON** said there is solid fencing on the north at this time. He said they would put up wrought iron fences between the buildings to the east area.

**FOSTER** asked if they would be averse to solid screen fencing.

**ALBERTSON** responded no, they would not be averse to solid screen fencing.

**RAMSEY** asked about the berm on the south side.

**ALBERTSON** said the berm will be between 0-3-5-6 feet with evergreen trees and shrubbery.

**RICHARDSON** asked if the facility was manned or unmanned.

**ALBERTSON** he said there will be a full security system with cameras all around the property. He said the conditional use provides that the facility be manned. He commented that he was surprised that the salvage yard objected to their usage. He said he does not believe there is a better buffer use, that this was a difficult site to develop because it had no sewer, it will be on a septic system.

**DAILEY** clarified that this will all be inside storage so there will be no cars or other vehicles outside. He also asked if each unit were alarmed.

**ALBERTSON** said each unit will not be alarmed, but it is all inside storage. He said there is a full security system and someone will be living on-site. He said this will not look like the storage units near Zoo Boulevard.

**MCKAY** recommended requiring a 4-6 foot berm.

**FOSTER** commented as a point of clarification with a 3-1 foot slope you can get a 5-foot berm.

**RICHARDSON** clarified that the landowner would not be able to use this conditional use for other purposes without reapplying and coming back to this body. He also asked about outside storage.

**MILLER** responded that if the base zoning is changed, the uses permitted by right in the LC district would be allowed. He said the conditional use for the self-storage would run with the land. He said the LC district does not allow any outside storage.

**RICHARDSON** asked if there was a summary on the number of petitions received and the percentage of landowners opposed to the zone change.

**MILLER** said no and indicated that owners within 350 feet of the property perimeter were notified of the zone change.

**DIRECTOR SCHLEGEL** clarified that protest petitions are due in after action by the Planning Commission and are not required for the public hearing.

**FOSTER** said he is concerned about other permitted uses in the LC zoning district. He said he doesn't have the zoning book with the permitted uses but believes there would be some that are more detrimental to the surrounding area.

**MILLER** mentioned multi-family, offices and most retail commercial activities. He said bars and taverns would require a conditional use approval and a public hearing and would not be allowed by right in the LC zoning.

**MCKAY** (Out @2:55 p.m.)

**J. JOHNSON** said he didn't know how he was going to vote but mentioned the Comprehensive Plan indicating the area as being residential. He said when someone buys into a nice development it seems like they should be able to have some reliance on the Comprehensive Plan that it will be residential.

**RICHARDSON** asked about a PO that limits commercial uses to the storage facility.

**MILLER** said the Commission could add a condition under the conditional use or exclude whatever uses they didn't want.

**RICHARDSON** said he believes this is a valid transitional use.

**MILLER** said the Commission could have a condition that states that even though the property is zoned LC, the only use permitted is a self-service storage warehouse and uses in the SF-5 district.

**ALBERTSON** said he would need to confer with the owners but he believes they can accept that yes.

**RAMSEY** said he lives in Ridgeport and drives 29<sup>th</sup> Street every day and he is the only car on the road. He said he didn't know how he was going to vote on this issue. He said he agreed that the storage units on Hoover Road look bad because of the outside storage. He said with staff recommendations and other recommendations he doesn't see where the Commission has any other choice. He said he feels their pain and does not know if he wants this use.

**FOSTER** asked the agent if they prefer that the item be deferred until clarification can be made regarding limiting uses in the LC zoning.

**ALBERTSON** said he would prefer that the Commission vote today.

**FOSTER** said as long as the uses can be clarified because he feels that some type of restrictions is appropriate.

**ALBERTSON** said if the request will be defeated he would prefer deferral. He said he believes they have agreed to a condition for self-storage only which he believes solves the problem.

**MOTION:** To approve subject to staff recommendation with the requirement of a 4-5 foot berm on 29<sup>th</sup> Street; limit use to inside storage only and limit use to self-storage only.

**WARREN** moved, **B. JOHNSON** seconded the motion.

**FOSTER** asked the agent if they were comfortable with the restrictions.

**ALBERTSON** replied yes.

The **MOTION** carried (11-0)

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5. **Case No.: ZON2015-00013 and CUP2015-00005** - Cadillac Lake, LLC (applicant/owner) and PEC, c/o Charles Brown (agent) request a City zone change request from SF-20 Single-family Residential to LC Limited Commercial and City request for a commercial Community Unit Plan on property described as:

**COMMENCING** at the Northwest corner of the Northwest Quarter of Section 5, Township 27 South, Range 1 West of the 6<sup>th</sup> P.M.; Thence Bearing S89°43'05"E, along the North line of said Northwest Quarter, a distance of 152.50 feet; Thence Bearing S00°16'55"W, a distance of 75.00 feet to the **POINT OF BEGINNING**; Thence Bearing S46°30'50"W, a distance of 36.11 feet; Thence Bearing S02°44'45"W, a distance of 1,213.26 feet to a point on the South line of the North half of said Northwest Quarter, also being a point on the North line of Pearson Commercial Addition to Wichita, Sedgwick County, Kansas; Thence Bearing S89°51'03"E, along the South line of said North half, a distance of 353.24 feet; Thence Bearing N00°16'55"E, a distance of 76.00 feet; Thence Bearing N67°24'00"E, a distance of 87.74 feet; Thence Bearing S89°43'05"E, a distance of 170.00 feet; Thence Bearing \ N13°05'15"E, a distance of 181.00 feet; Thence Bearing N41°50'33"E, a distance of 285.00 feet; Thence Bearing S89°43'05"E, a distance of 66.00 feet; Thence Bearing N71°43'05"E, a distance of 120.00 feet; Thence Bearing N28°42'50"E, a distance of 238.00 feet; Thence Bearing N41°30'08"E, a distance of 200.00 feet; Thence Bearing N81°34'23"E, a distance of 523.89 feet; Thence Bearing N23°58'40"E, a distance of 197.00 feet; Thence Bearing N44°06'36"E, a distance of 130.00 feet; Thence Bearing N89°43'05"W, parallel with and 60.00 feet South of the North line of said Northwest Quarter a distance of 1,541.92 feet; Thence Bearing S81°45'05"W, a distance of 101.12 feet; Thence Bearing

N89°43'05"W, parallel with and 75.00 feet South of the North line of said Northwest Quarter, a distance of 225.00 feet to the **POINT OF BEGINNING**. (said tract of land containing 30.656 acres, more or less)

**CHAIR GOOLSBY** announced that the item has been deferred until the April 16, 2015 Planning Commission Hearing.

**GOOLSBY** (Out @3:00 p.m.)

Carol Neugent in the Chair.

6. **Case No.: CON2015-00009** – Thomas Deiling, owner/Adam and Nicole Pracht, agents request a County request for a Conditional Use for an Accessory Apartment on RR Rural Residential zoned property on property described as:

A tract of land described as the East 300 feet of the South 726 feet of the South half of the Southeast Quarter EXCEPT the South 40 feet for road, in Section 11, Township 28, Range 2 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas.

**BACKGROUND:** The applicant is requesting a Conditional Use for an accessory apartment to be built on the 2<sup>nd</sup> floor of an accessory structure. The unplatted property is zoned RR Rural Residential and is approximately 4.25 acres. It is currently developed with a single-family residence, shed, above-ground pool with deck and a lagoon for the septic. The subject site is located at the northwest corner of South 135<sup>th</sup> Street West and West MacArthur Road. The Sedgwick County site is not located within any Zoning Area of Influence. Hedgerows provide screening on all sides of the property.

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines an “accessory apartment” (Art. II.Sec. II-B.1.b) as a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit. Accessory apartments are also subject to supplementary use regulation Art. III.Sec.III-D.6.a (1) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment; (2) the appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood; (3) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and (4) the water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

The surrounding properties to the north, west and south are large tracts zoned RR. The uses include single-family residences, agriculture fields and farming/ranch operations with improvements. The property to the east is zoned SF-20 with single-family residential development, but is platted for a Manufactured Home subdivision, Trinkle Addition.

The applicant submitted an existing site plan showing the location of existing structures and the 30-foot X 50 lagoon. The applicant also submitted a proposed site plan which identifies the location of the new 56-foot X 88-foot accessory structure, extension of the existing driveway and a new 50-foot X 50-foot lagoon.

**CASE HISTORY:** The subject property is located in the Future Southwest Interceptor Basin is not platted;

**ADJACENT ZONING AND LAND USE:**

NORTH: RR	Large tract, Farming/Ranch Operations with associated farm buildings
SOUTH: RR	Large tract, agricultural fields
WEST: RR	Single-family residences on lots ranging from 3 to 8 acres
EAST: SF-20	Large tract, CU 337 (4 parcels: single-family residence, vacant, manufactured home and single-family residence) to allow a Manufactured Home subdivision, platted October 1991.

**PUBLIC SERVICES:** MacArthur Road and W. 135<sup>th</sup> Street South are both arterial paved streets. The subject site has access to MacArthur. The property is served by a lagoon for sewage and is located in Sedgwick County Rural Water District #04; however, the site is served by an on-site water well.

**CONFORMANCE TO PLANS/POLICIES:** The “2030 Land Use Guide of the Comprehensive Plan” (Plan) identifies the subject site as being in the Wichita 2030 Urban Growth Area. This category identifies Wichita’s urban fringe areas that are presently undeveloped but have the potential to be developed by the year 2030, based upon Wichita population growth projections and current market trends. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED**, with the following conditions:

- (1) The accessory apartment shall remain accessory to and under the same ownership as the principal single-family residence (located at 13616 W. MacArthur Road) and the ownership shall not be divided or sold as a condominium. The appearance of the accessory structure shall be compatible with the main dwelling.
- (2) The water and sewer service provided to the accessory apartment shall not be provided as separate services from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services. The applicant shall have the MABCD review the status of the existing sewer septic system.
- (3) The applicant shall obtain all applicable permits including, but not limited to: building, health and zoning. This will include turning in plans for review and approval by the MABCD for the placing of the accessory apartment.
- (4) Development and maintenance of the site shall be in conformance with the approved site plan.



- (5) If the accessory apartment is not in place within 12 months after final approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The County subject site is located in an RR and SF-20 zoned area with lots ranging from +/- 2 acres to 39 acres. Development is a mix of large lot single-family residential and farming/ranching operations. Located east of 135<sup>th</sup> Street is a SF-20 zoned manufactured home subdivision: CU-337.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The subject site is currently zoned RR which permits the existing single-family residence. The property could continue to be used for one single-family residence; the depth of the property easily accommodates an accessory apartment and the additional required parking space.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** This appears to be the first request for an accessory apartment in this neighborhood. Approval of the request should not detrimentally impact nearby properties. The conditions of approval should minimize any anticipated detrimental impacts.
- (4) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies** The “2030 Land Use Guide of the Comprehensive Plan” (Plan) identifies the subject site as being in the Wichita 2030 Urban Growth Area. This category identifies Wichita’s urban fringe areas that are presently undeveloped but have the potential to be developed by the year 2030, based upon Wichita population growth projections and current market trends. Determination of growth direction and amount is based upon municipal political considerations, anticipated municipal population growth, efficient patterns of municipal growth, current infrastructure limitations, cost effective delivery of future municipal services and environmental factors. The RR zoning district allows single-family residential use. A Conditional Use application/request is required for consideration of an accessory apartment in the RR zoning district.
- (5) **Impact of the proposed development on community facilities:** Community facilities are the public streets in the neighborhood, police and fire services, none of which will be noticeably impacted by another residence being built on the site. There is no public water or sewer service available to the neighborhood.

**DALE MILLER**, Planning Staff presented the Staff Report.

**HELEN VEATCH, 3811 SOUTH 135<sup>TH</sup> STREET WEST** said she lives north of the site. She asked if a survey would be required since they are moving the lagoon.

**MILLER** said he is not aware of any requirement for a survey. He said when the applicant applies for a permit they will need a legal description of their property and it is up to the applicant to know where the property boundaries are. He said if there is a concern she can talk with the applicant, or the Commission could make it a condition of approval.

**VEATCH** said they had their property surveyed back in 1986 but the post has fallen down.

**KLAUSMEYER** asked the speaker if they were concerned about the location of the lagoon.

**VEATCH** said the Staff Report indicates the lagoon will be located 60 feet away from the property line. She said she just wants to make sure the property line is right.

**TOM VEATCH, 3811 SOUTH 135<sup>TH</sup> STREET WEST** said today is the first time they have seen the proposed site plan. He said if the property is developed according to the site plan, he has no objections whatsoever.

**MOTION:** To approve subject to staff recommendation and a survey to locate the property line before the lagoon is located.

**B. JOHNSON** moved, **WARREN** seconded the motion, and it carried (9-0).

7. **Case No.: CON2015-00011** – Joshua Price requests a County Conditional Use to permit an accessory apartment on RR Rural Residential zoned property on property described as:

Beginning 629.45 feet South of the Northwest corner of the Northwest Quarter; thence Northeasterly 1956.01 feet; thence Southeasterly 50 feet; thence South 365.46 feet; thence West 1941.42 feet; thence North 96.8 feet to beginning except the West 50 feet for road Section 11, Township 28 South, Range 4 West of the 6<sup>th</sup> P.M., Sedgwick County, Kansas

**BACKGROUND:** The applicant requests a Conditional Use for an “accessory apartment” on unplatted property zoned Rural Residential (RR). The site is located on the northeast corner of South 343<sup>rd</sup> Street and West 32<sup>nd</sup> Street South (3300 South 343<sup>rd</sup> Street West). The property is currently developed with a single-family residence, a number of accessory buildings and a variety of animal enclosures located on 11.55 acres. The applicant proposes to convert an existing structure, shown on the eastern side of the applicant’s site plan that is attached to a structure identified as the “garden store kitchen” into an accessory apartment. Access to the site is via South 343<sup>rd</sup> Street West, which is unpaved. Based upon the submitted site plan, the site’s existing driveway has been or can be extended to provide vehicular access to the proposed apartment. The principal structure located on the site appears to be a single-wide manufactured home with cream or beige colored vinyl or metal siding. The exterior of the proposed accessory apartment is unpainted galvanized metal or aluminum. The site utilizes on-site sanitary sewer and water well. The application area has an existing hedgerow located on a small portion of the southern property line abutting West 32<sup>nd</sup> Street South, which is also unpaved.

The applicant’s site plan is not drawn to scale and does not provide any dimension control relative to the proposed accessory apartment’s specific location. A comparison of a 2011 aerial (the latest to which staff has access) indicates the structure proposed to house the accessory apartment was built after 2011.

All properties abutting or adjoining the application area are zoned RR. The property located immediately north of the site contains railroad tracks. North of the railroad tracks is a 16-acre pasture. North of the pasture is a single-family residence. Property (7.3 acres) located to the east is developed with a site-built single-family residence. Property (multiple lots containing between eight and 9.9-acres) located to the south of the site, across West 32<sup>nd</sup> Street South, are developed with a mix of manufactured and site-built single-family residences. Some of the homes located south of the site front to the east onto South 339<sup>th</sup> Street West while some front west onto South 343<sup>rd</sup> Street West. Land (7.4 acres) located west of the site, across South 343<sup>rd</sup> Street West, is developed with a manufactured home.

The Wichita-Sedgwick County Unified Zoning Code (“UZC”) defines an “accessory apartment” (Article II, Section II-B.1.b) as a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit. Accessory apartments are also subject to supplementary use regulation Article III, Section III-D.6.a (1) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment; (2) the appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood; (3) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and (4) the water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

With respect to the applicant’s current proposal, the existing structure is not in compliance with Supplementary Use Regulations Article III, Section III-D.6.a(2) and (4). Section III-D.6.a(2) requires the appearance of the accessory apartment to be compatible with the main dwelling unit and with the character of the neighborhood. As noted above, the exterior of the proposed accessory structure is unfinished metal or aluminum while the exterior of the principal structure is cream or beige vinyl. Staff has been advised that because the proposed accessory apartment is attached to the “garden store kitchen” in which food is proposed to be prepared, including the processing of chicken, the “garden store kitchen” and the accessory apartment will need to be connected to a separate on-site sanitary sewer system. Article V, Section V-D.6 allows modifications to the Supplementary Use Regulation requirements by the governing body. Waivers for these two requirements will be needed.

The RR zoning district property development standards call for a minimum rear setback of 25 feet for principal structures; however, accessory structure rear building setback (Sec. III-D.7.e(1)) shall be at least ten feet from the centerline of any platted or dedicated alley, and if no alley exists, then five feet from the rear lot line. Accessory structures may not utilize more than one-half of any required rear yard, and shall not exceed 60 percent of the allowable height limit for the zoning district unless the accessory structure conforms to principal structure setback requirements. The RR district has a 20-foot interior side yard setback requirement; accessory structures may be located within three feet of a side lot line if located on the rear half of the property. The front yard setback is 30 feet. The UZC parking standards require one off-street parking space per single-family residence and one per accessory apartment. The fire department requires a 20-foot wide rock or paved driveway; however, there is not requirement that the parking space be next to the apartment or that there be a driveway to the proposed apartment.

**CASE HISTORY:** The RR zoning was applied in 1985 when the county adopted county wide zoning.

**ADJACENT ZONING AND LAND USE:**

North: RR; railroad track, farmland and single-family residence  
South: RR; site-built and manufactured homes on large lots  
East: RR; site-built single-family residence on a large lot  
West: RR; a manufactured home on a large lot

**PUBLIC SERVICES:** The site utilizes on-site water and sanitary sewer services. South 343<sup>rd</sup> Street West is unpaved and has approximately 98 feet of right-of-way. West 32<sup>nd</sup> Street South is unpaved and has approximately 70 feet of right-of-way.

**CONFORMANCE TO PLANS/POLICIES:** The 2030 Wichita Functional Land Use Guide map depicts this site as a rural area. Rural areas are land located outside of urban growth areas and permits uses that are no more offensive than those agricultural uses commonly found in Sedgwick County.

**RECOMMENDATION:** The surrounding area is overwhelmingly rural with large tracts of farmland/farmsteads or large-lot single-family residences. The application area has 11.5 acres which is more than enough room to accommodate the accessory apartment and the existing principal structure. Based on information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan and in conformance with all applicable regulations, including but not limited to: local zoning, including Article III, Section III-D.6.a(1) and (3); building, fire and utility regulations or codes. Article III, Section III-D.6.a(2) and (4) are waived.
2. The applicant shall submit a revised site plan that includes dimension control and abutting roadways. The applicant shall also submit a photograph or elevation drawing of the approved accessory apartment. The appearance of the accessory apartment shall be maintained in substantial compliance with that approved by the planning commission or governing body. Modifications to the accessory apartment may be made with the concurrence of the Zoning Administrator provided the improvements are consistent with the spirit and intent of the accessory apartment regulations.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All properties abutting or adjoining the application area are zoned RR. The property located immediately north of the site contains railroad tracks. North of the railroad tracks is a 16-acre pasture. North of the pasture is a single-family residence. Property (7.3 acres) located to the east is developed with a site-built single-family residence. Property (multiple lots containing between eight and 9.9-acres) located to the

south of the site, across West 32<sup>nd</sup> Street South, are developed with a mix of manufactured and site-built single-family residences. Some of the homes located south of the site front to the east onto South 339<sup>th</sup> Street West while some front west onto South 343<sup>rd</sup> Street West. Land (7.4 acres) located west of the site, across South 343<sup>rd</sup> Street West, is developed with a manufactured home.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned RR that primarily permits large-lot single-family residences and agriculture. The site could continue to be used as a single-family residential site and have economic value without approval of the application.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The recommended conditions of approval should minimize anticipated impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably represent a hardship upon the property owner with respect to providing additional housing on the property.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts this site as a rural area. Rural areas are land located outside of urban growth areas and permits uses that are no more offensive than those agricultural uses commonly found in Sedgwick County.
6. Impact of the proposed development on community facilities: None identified.

**DALE MILLER**, Planning Staff presented the Staff Report.

**FOSTER** said he can't determine the parking requirement from the site plan. He also asked if rendering chickens on site would require different zoning.

**MILLER** commented that the applicant is required to provide one parking space for the accessory apartment which can be located at the main house or at another location. He said they site has plenty of room to do that. He said he understands that the applicant raises chickens on site and processes and sells them. He said County Code is requiring the applicant to have a separate sewer solution because the accessory apartment is attached to the kitchen. He said the apartment will be connected to a separate system rather than the one that serves the house. He added that the accessory apartment has a metal exterior and Code also requires that the exterior be the same as the principle structure. He said this application will need to go to the County Commission to have those two items waived; namely, the separate sewer solution and having a exterior that is different from the principle structure.

**FOSTER** clarified that the application can proceed as Rural Residential zoning.

**MILLER** replied yes, this is considered an agricultural use.

**LARRY OXINDINE, 3341 SOUTH 339<sup>TH</sup> STREET WEST** said he lives two properties to the south of this location. He said he understood that you had to have a minimum of 4.5 acres for private sewage (lagoon). He said this will be two private lagoons within that same amount of acreage.

**MILLER** said he understands that you need 4.5 acres for a lagoon; however, if you are using a septic system the minimum lot size is based on the length of the lateral field that it takes to serve the facility.

**OXINDINE** said he understands that no permits or inspections have been pulled on this property and all the outbuildings have been built without permits or inspections. He said the Commission is considering allowing several variances on a condition that is only this far along because no permits were pulled properly. He said it is like awarding someone usage without proper process. He referred to the Supplementary Use Regulations for an accessory apartment, which says that permits will not be issued unless the applicant is in compliance with the Regulations. He said this would be a variance against two of the requirements under those Regulations. He asked the Commission to follow the rules and regulations and not allow the variance. He said there have been all kinds of additions built on the property without any permitting and he questions whether any of those structures meet Code. He added that the storm drainage across the property has also been changed; he's sure without permit or design. He concluded by asking that the application be looked at a lot closer. He said a good aerial view of this location would reveal that it is an eyesore. He said the site is a mess with structures and building materials scattered across the property.

**BARNEY E. WALSH, 3342 SOUTH 339<sup>TH</sup> STREET WEST** said he also lives two houses down from this location. He said he would like a definition of "accessory apartment".

**MILLER** said the UZC allows an accessory apartment with the approval of a conditional use on a site that only allows one principle structure. He said with a conditional use permit, an applicant can have an additional structure that is referred to as an "accessory apartment".

**WALSH** said commercial or industrial use of this property is totally inappropriate because it is located in the middle of nowhere. He said he feels this type of use should be located in the town of Cheney itself rather than a residential area. He said when they received the public hearing notice they thought it was for an apartment complex so they had numerous concerns about traffic and other items.

**BERNADETTE WALSH, 3342 SOUTH 339<sup>TH</sup> STREET WEST** commented that the first gentleman who spoke is correct in that the applicant has been building on the property and they have not seen any inspectors or appraisers monitoring construction. She said there are all kinds of animals out there also; it is an eyesore and the lot smells because the applicant is using animal droppings for fertilizer. She said when they received the public hearing notice they thought it was for multi-family housing. She said they are worried about their property values. She said she also believes that the location needs to be looked at. She said this area is mostly scrub land and there are no street lights, sewers, curbs or fire hydrants.

**J. JOHNSON** asked if the Planning Commission had control over any of the issues brought up by the three speakers.

**MILLER** responded that the Planning Department doesn't have any control over items such as building permits and any Code violations, which is governed by MABCD. He clarified that the Code does allow for waiver of the two items covered by the Supplemental Use Regulations. He added that the Cheney Planning Commission recommended approval of the application. He said at that meeting the applicant indicated that this accessory apartment was for his parents to live in.

**TERRY CHARD, 227 MARSHALL** said he and his wife would be moving into the accessory structure as soon as it was ready that his son wanted to take care of them in their old age.

**FOSTER** asked about any non-conforming uses on the site and if staff comments were enough to cover possible future improvements. He also said he felt the site plan should address drainage.

**KELLY DIXON, MABCD STAFF** said he had not reviewed staff comments but added that this is an agricultural use and drainage issues are usually handled through the platting process. He said for a lot this small and for agricultural usage they don't usually look at drainage. He said they would review drainage if this was located in or near the Floodplain.

**FOSTER** asked what assurances the Planning Commission has that the accessory structure will be built up to Code.

**DIXON** commented that staff has conducted a preliminary inspection and is awaiting the outcome of this hearing. He added that several structures on the site have been permitted and inspected "after the fact."

**RICHARDSON** clarified that the two issues requiring County Commission approval were the sewage and building exterior. He asked staff if the Planning Commission had any say on those issues.

**MILLER** said the Planning Commission can make any recommendation they feel is appropriate.

**MOTION:** To send the application to the County Commission with no recommendation.

**J. JOHNSON** moved, **B. JOHNSON** seconded the motion and later withdrew his second. **DAILEY** seconded the motion.

**ROBERT PARNACOTT, ASSISTANT COUNTY COUNSELOR** said the Unified Zoning Code provides that the Planning Commission will hold a public hearing and approve, approve with modifications or deny applications for conditional uses. He said doing nothing really wasn't a choice and added that no recommendation by the Planning Commission would be treated more or less as a denial and could be appealed to the County Commission. He said the Commission should choose one of the three actions he listed.

**J. JOHNSON** withdrew his motion.

**MOTION:** To approve subject to staff recommendation.

**B. JOHNSON** moved, **WARREN** seconded the motion.

**KLAUSMEYER** said there were two separate issues. One was the conditional use for an accessory apartment and the other sounded like an issue for the health department. He said having been raised on a farm that sold turkeys and having a brother who owns a dairy farm, he knows there are a lot of health inspections. He said he wanted to assure the audience that the Planning Commission was voting on the accessory apartment, not on what has already occurred at the location.

**FOSTER** clarified that the motion and staff comments did not include the requested waivers.

**MILLER** indicated staff recommendation did include the requested waivers on sewage and the building exterior.

The **MOTION** carried (8-1). **FOSTER** – No.

8. **Case No.: PUD2015-00002** - Greg and Deb Boen (owners/applicants) and Ruggles & Bohm, PA c/o Chris Bohm (agent) request a County zoning change request from RR Rural Residential to PUD Planned Unit Development for an event center on property described as:

The North half of the North half of the Southwest Quarter EXCEPT roads, all in Section 13, Township 25, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas.

**CHAIR GOOLSBY** announced that the item has been deferred until the April 16, 2015 Planning Commission Hearing.

Other Matters/Adjournment

**DIRECTOR SCHLEGEL** reported that the Board of County Commissioners passed a resolution to set up a separate County Board of Zoning Appeals which will necessitate that the City do likewise. He said the change should take place effective July 1, 2015 so the Board's consolidated status as the Wichita-Sedgwick County Board of Zoning Appeals will end July 1, 2015.

**ROBERT PARNACOTT, ASSISTANT COUNTY COUNSELOR** added that the change will necessitate a slight change to the UZC which will need to be placed on the agenda and acted on.

The Metropolitan Area Planning Commission adjourned at 3:00 p.m.

State of Kansas            )  
Sedgwick County        ) <sup>ss</sup>

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2015.



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John L. Schlegel, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)